

SENATE BILL No. 102

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-11-2; IC 13-12-6.

Synopsis: Lead-bearing substances. Restricts the use and sale of lead-bearing substances and items to which young children have access. Prohibits the removal or defacing of a lead warning on a product label. Requires a paint vendor to provide lead information pamphlets to customers and to offer lead test kits for sale.

Effective: January 1, 2008.

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January 8, 2007, read first time and referred to Committee on Health and Provider Services.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 102

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 13-11-2-71, AS AMENDED BY P.L.170-2006,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2008]: Sec. 71. "Environmental management laws"
4 refers to the following:
5 (1) IC 13-12-2, ~~and~~ IC 13-12-3, **and IC 13-12-6.**
6 (2) IC 13-13.
7 (3) IC 13-14.
8 (4) IC 13-15.
9 (5) IC 13-16.
10 (6) IC 13-17-3-15, IC 13-17-8-10, IC 13-17-10, and IC 13-17-11.
11 (7) IC 13-18-12 and IC 13-18-15 through IC 13-18-20.
12 (8) IC 13-19-1 and IC 13-19-4.
13 (9) IC 13-20-1, IC 13-20-2, IC 13-20-4 through IC 13-20-15,
14 IC 13-20-17.7, and IC 13-20-19 through IC 13-20-21.
15 (10) IC 13-22.
16 (11) IC 13-23.
17 (12) IC 13-24.



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(13) IC 13-25-1 through IC 13-25-5.

(14) IC 13-27-8.

(15) IC 13-30, except IC 13-30-1.

SECTION 2. IC 13-11-2-118.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: **Sec. 118.7 "Lead-bearing substance", for purposes of IC 13-12-6, means:**

(1) paint; or

(2) other surface coating material;

with a lead content of more than six-hundredths percent (0.06%) by weight.

SECTION 3. IC 13-12-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]:

Chapter 6. Lead Restrictions

Sec. 1. A person may not use or apply a lead-bearing substance as follows:

(1) In or on a surface of a dwelling, dwelling unit, child care facility, other structure, or playground that:

(A) is exposed in the ordinary course of use; and

(B) can reasonably be expected to be accessible;

to a child who is not more than six (6) years of age.

(2) In or on an item, including clothing, accessories, jewelry, decorative objects, edible items, candy, food, dietary supplements, toys, furniture, and other articles, that:

(A) can reasonably be expected to be accessible to; or

(B) is intended to be chewable by;

a child who is not more than six (6) years of age.

Sec. 2. (a) This section applies to the following actions with respect to an item referred to in section 1(2) of this chapter:

(1) Selling at wholesale or retail.

(2) Offering for sale at wholesale or retail.

(3) Distributing.

(4) Transferring.

(b) A person may take an action described in subsection (a) only if:

(1) the lead content of the item is less than six-hundredths percent (0.06%) by weight; or

(2) the person can provide written documentation under subsection (c) that the manufacturer or importer has determined that the item is not a hazardous substance (as defined in 42 U.S.C. 9601(14), as in effect on January 1, 2007).

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(c) The documentation referred to in subsection (b)(2) must:

- (1) be consistent with the guidance contained in 16 CFR Part 1500.230;
- (2) state the total amount of lead contained in the item;
- (3) state the bioavailability of the lead;
- (4) state the accessibility of the lead to children;
- (5) state the age and foreseeable behavior of the children exposed to the item;
- (6) state the foreseeable duration of the exposure to the lead; and
- (7) state the marketing, patterns of use, and life cycle of the item.

(d) If the state department of health or a local health department believes that an item referred to in section 1(2) of this chapter offered for sale by a person is likely to exceed the lead content limit in subsection (b)(1), the state department or the local health department may send a written notice to the person demanding the documentation referred to in subsection (b)(2) not later than seven (7) days after the date of the notice. If the person does not provide the documentation to the department that sent the notice by that deadline, the person shall immediately withdraw the item from sale until the person:

- (1) provides the documentation to the department that sent the notice; and
- (2) receives written notice from the department that sent the notice that the documentation provided meets the requirements of this section.

Sec. 3. (a) This section applies to the following actions:

- (1) Selling at wholesale or retail.
- (2) Offering for sale at wholesale or retail.
- (3) Distributing.
- (4) Transferring.

(b) A person may not take an action described in subsection (a) with respect to a fixture or other object that:

- (1) is intended to be used, installed, or located in a dwelling, dwelling unit, or child care facility;
- (2) contains a lead-bearing substance; and
- (3) in the ordinary course of use:
 - (A) can reasonably be expected to be accessible to; or
 - (B) is intended to be chewable by;
 a child who is not more than six (6) years of age.

Sec. 4. A person may not remove, deface, mark out, or otherwise

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obscure a statement that:

(1) a manufacturer or wholesaler places in:

(A) a label; or

(B) other written, printed, or graphic matter;

on a product or any of the product's containers or wrappers;
and

(2) states that the product contains or may contain lead.

Sec. 5. (a) A person that offers paint to the general public for sale in quantities of one (1) gallon or more must do the following:

(1) Offer copies of the United States Environmental Protection Agency's "Protect Your Family from Lead" pamphlet to all customers.

(2) Place a poster visible at the main customer entrance that informs customers of the right to receive a copy of the pamphlet referred to in subdivision (1).

(3) Offer for sale a lead test kit that is capable of determining the presence of a lead-based paint hazard, as defined in 40 CFR 745, Subpart D.

(b) The state department of health or a local health department may provide a sample or representative poster described in subsection (a)(2).

Sec. 6. Civil penalties under IC 13-30-4-1 apply to violations of this chapter.

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